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OFFICE OF GENERAL
COUNSEL

September 11, 2014

Lawrence H. Norton

T 202.344.4541

F 202.344.8300

LHNorton@venable.com

VIA HAND DELIVERY

Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

**Re: MUR 6853
Response from Lamp Post Group, LLC**

Dear Mr. Jordan:

This letter is submitted on behalf of Lamp Post Group, LLC ("Lamp Post"), in response to a complaint ("Complaint") filed with the Federal Election Commission ("the Commission").¹ The Complaint alleges that Weston Wamp, a candidate for Congress, was on a "paid leave of absence" while campaigning in the 2014 primary election and that, as a result, his employer, Lamp Post, made unreported contributions to Mr. Wamp's principal campaign committee, in violation of the Federal Election Campaign Act of 1971 (the "Act"), as amended, and Commission regulations.

The Complaint is based entirely on a single newspaper article in which Lamp Post partner, Allan Davis, misspoke regarding Mr. Wamp's employment status during the campaign. In the same article, another Lamp Post partner, Jack Studer, explained that Mr. Davis was mistaken, and that Mr. Wamp was working for the company during the campaign, just not at the office or during traditional work hours. Indeed, Mr. Wamp, himself, is quoted in the article, explaining that he was working remotely and remained active at Lamp Post throughout his campaign. The Complaint also implies that Mr. Wamp received a substantial salary increase in 2014, but the financial disclosure statement cited in the Complaint was amended to correct a transposition error, and as a result, does not support this allegation.

As discussed below, Mr. Wamp has been a dedicated and highly-valued employee of Lamp Post since November 2010, more than three years before his 2014 campaign began. During the campaign, Mr. Wamp continued to perform the same duties and meet the same

¹ Along with this letter, we submit the Affidavit of Mr. Jack Studer as Attachment A, as well additional supporting evidence as Attachment B.

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expectations that were in place prior to his candidacy. Moreover, Mr. Wamp was compensated exclusively for his work for Lamp Post, and his compensation was comparable to what similarly qualified individuals received at Lamp Post and elsewhere in the same field.

Accordingly, there is no reason to believe that Lamp Post violated the Act or Commission regulations, and the Complaint should be dismissed.

I. THE LAMP POST BUSINESS MODEL AND BACKGROUND.

Lamp Post is a Delaware limited liability company headquartered in Tennessee and founded in 2010. The company provides financial investment and business advice to aspiring entrepreneurs and their start-up businesses.² Mr. Wamp, who was hired as an employee in November 2010, has been with the company almost since its inception.³

Lamp Post currently has about twenty employees. Some are assigned to work closely with one or more supported start-up businesses. Written employment agreements are not common. Employees generally do not have specific, set work hours or requirements to keep time records, and working remotely is a common practice.⁴

By design, Lamp Post maintains a very informal workplace. The company does not have a formal reporting structure, and employees are largely responsible for initiating new work and managing their own projects. Lamp Post also does not have formal procedures for setting or adjusting employee wages and bonuses, and conducts only informal annual reviews for its employees.⁵ This unstructured work environment is intended to encourage entrepreneurial creativity and initiative.

Lamp Post's model has successfully helped launch several ventures since 2010, including Chattanooga-based media company Fancy Rhino and Campus Bellhops, a local on-demand moving service now in 130 cities nationwide. Earlier this year, Lamp Post placed a salesforce management software company, Ambition, into the prestigious Y Combinator accelerator program in Silicon Valley. Currently, Lamp Post invests in and mentors sixteen different start-up companies. Lamp Post's approach to entrepreneurship and the quality of service it provides continue to attract new ventures.⁶

² Affidavit of Jack Studer, at ¶3.

³ In the early period after Lamp Post's creation, all Lamp Post employees were employed by a company called Access America Transport ("AAT"), which was previously founded by three Lamp Post partners. AAT paid Lamp Post a management fee that allowed Lamp Post to hire employees and to begin its investment and development activities. Affidavit of Jack Studer, at ¶ 2 and ¶5.

⁴ Affidavit of Jack Studer, at ¶4.

⁵ Affidavit of Jack Studer, at ¶ 4.

⁶ Affidavit of Jack Studer, at ¶ 3.

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II. MR. WAMP'S COMPENSATION DURING HIS CAMPAIGN MET THE THREE REQUIREMENTS OF 11 C.F.R. 113.1(g)(6)(iii).

11 C.F.R. 100.33(b)(1) states that income to a candidate during an election cycle that is a salary or other earned income from *bona fide* employment is considered part of his or her personal funds and does not constitute a contribution. Under 11 C.F.R. 113.1(g)(6)(iii), payments that are compensation will be considered contributions unless:

- (a) The compensation results from *bona fide* employment that is genuinely independent of the candidacy;
- (b) The compensation is exclusively in consideration of services provided by the employee as part of this employment; and,
- (c) The compensation does not exceed the amount of compensation which would be paid to any other similarly qualified person for the same work over the same period of time.

As explained below, Mr. Wamp's compensation from Lamp Post during his campaign, from January 2014 through August 2014, met each of these requirements, and no excessive or prohibited contribution from Lamp Post resulted.

A. Mr. Wamp and Lamp Post Had a *Bona Fide* Employment Relationship.

Mr. Wamp was hired as a Lamp Post employee on November 29, 2010.⁷ He announced his candidacy for the Third District congressional seat in Tennessee in January 2014, and filed his Statement of Candidacy with the Commission on January 15, 2014. Thus, the inception of Mr. Wamp's employment relationship with Lamp Post predates by more than three years the announcement of his candidacy for the 2014 primary election. This fact alone is strong evidence that the compensation paid to Mr. Wamp stems from "bona fide employment," which is "genuinely independent of his candidacy."⁸

In addition, the history of Mr. Wamp's employment relationship with Lamp Post shows that he was hired and retained for his skills and attributes, not his candidacy. In AO 2013-03 (Bilbray-Kohn), an individual who was exploring a potential federal campaign resigned her executive director job with a nonprofit, but the nonprofit retained her as a paid consultant

⁷ Affidavit of Jack Studer at ¶ 5.

⁸ MUR 5571 (Tanónaka for Congress, 2007) Second General Counsel's Report 11 (noting that the consulting arrangement between the candidate and company was entered into "more than a year" before the candidate announced his candidacy).

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because of her knowledge of the organization and its goals, her expertise and background, and her skills as a mentor. The Commission concluded that these reasons for retaining the consultant had nothing to do with her candidacy, and therefore the consulting fees paid to her after she became a candidate would not be prohibited contributions.⁹

Here, too, the factors that drove Lamp Post to hire Mr. Wamp and that have made him a thriving employee have nothing to do with his candidacy for federal office. Lamp Post partners initially identified Mr. Wamp as promising because of his excellent communication skills, his extensive contacts within the Chattanooga business community and the broader nationwide community of young entrepreneurs, and his success in operating his own consulting business, Wamp Strategies LLC, which became one of the first companies Lamp Post began working with. As a Lamp Post employee, Mr. Wamp has been a key player in helping manage the Lamp Post brand and helping the companies that Lamp Post supports do the same. Mr. Wamp has helped mentor young entrepreneurs, with a particular focus on media relations, harnessing social media, and communicating about a start up's mission and goals.¹⁰ Like the consultant in AO 2013-03, "[n]one of these factors is dependent upon – or even in any way related to – [Mr. Wamp's] candidacy for Federal office."

Finally, neither Mr. Wamp's duties as an employee nor his compensation changed after he became a candidate.¹¹ The Complaint suggests that Mr. Wamp received a substantial pay increase in 2014, citing the financial disclosure statement that he filed with the House of Representatives on May 14, 2014 ("May 2014 Statement"), which reports that he received \$24,000 in compensation during 2013 and \$67,203 for the period from January through April 2014. However, the May 2014 Statement contained a simple transposition error, placing the compensation figures in the wrong columns. On August 6, 2014, Mr. Wamp amended the May 2014 Statement to make this correction. The amended form, provided as Attachment B, correctly states that Mr. Wamp received \$67,203 in compensation from Lamp Post in 2013 and only \$24,000 in compensation in the first four months of 2014.¹²

In sum, Mr. Wamp clearly had a *bona fide* employment relationship with Lamp Post that was genuinely independent of his candidacy.¹³

⁹ See also MUR 5014 (Jeff Flake for Congress, 2003) Second General Counsel's Report 8-9 (referring to affidavits referencing the candidate's business contacts, lobbying, networking, and other relevant skills as reasons why he was engaged as a consultant and finding that a *bona fide* relationship existed).

¹⁰ Affidavit of Jack Studer, at ¶ 5.

¹¹ Affidavit of Jack Studer, at ¶ 10.

¹² See AO 2013-03 ("Furthermore, there is no indication that Ms. Bilbray-Kohn's duties as a consultant or compensation for her services will change should she become a candidate.")

¹³ The absence of a written employment agreement is immaterial to a determination that there is a *bona fide* employment relationship. AO 2011-27 (New Mexico Voices for Children) (finding a *bona fide* employment

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B. Lamp Post Paid Mr. Wamp Compensation Exclusively for Services Provided During His 2014 Candidacy.

Mr. Wamp's compensation was "exclusively in consideration of [his] services" as an employee of Lamp Post. 11 C.F.R. 113.1(g)(6)(iii)(B). As noted above, Mr. Wamp's candidacy began in January 2014; it ended when he lost the Republican primary on August 7, 2014. During his campaign, Mr. Wamp fulfilled all of the duties and responsibilities of his employment relationship: he met with Lamp Post companies regarding sales and marketing strategies; assisted with Lamp Post's media relations; and promoted entrepreneurship in Chattanooga. Indeed, there was never any discussion among Lamp Post partners, or between the partners and Mr. Wamp, about reducing Mr. Wamp's duties or workload while he ran for Congress.¹⁴

Beginning in 2013, Mr. Wamp began working extensively with a company he brought to Lamp Post's attention, PriceWaiter, a start-up dedicated to helping retailers engage with price comparison shoppers. In 2013 and 2014, Mr. Wamp managed a two-person sales team for PriceWaiter and provided public relations and communications guidance as the company built up its online presence and marketing. During Mr. Wamp's candidacy, Mr. Wamp and Mr. Studer met with the PriceWaiter sales team and other PriceWaiter staff about implementing the sales and marketing strategies that had been developed by Mr. Wamp. Mr. Wamp was an active and engaged participant at these meetings, providing insight into the company's sales strategy and performance.¹⁵ He also provided advice to other Lamp Post-supported companies during his candidacy: for instance, in March 2014, when AAT was sold to a competitor, Coyote Logistics, Mr. Wamp assisted the Lamp Post partners in managing media coverage surrounding the sale.¹⁶

During his candidacy, Mr. Wamp also assisted Lamp Post itself with its branding and marketing needs. For example, Mr. Wamp helped organize and host a speaker for a Lamp Post event aimed at promoting entrepreneurship in Chattanooga. He was also available throughout the campaign to assist Lamp Post partners in responding to assorted media inquiries and promotional matters.¹⁷

relationship where the organization did not have a written agreement with its former executive director and also did not have a written severance policy to guide its decision to provide a severance payment to this individual); *see also* AO 2004-08 (American Sugar Cane League) ("the lack of a written severance policy and the existence of some Board discretion in determining the size and scope of a severance package are not fatal to the conclusion that the proposed severance package" is compensation and not a contribution).

¹⁴ Affidavit of Jack Studer at ¶ 10.

¹⁵ Affidavit of Jack Studer, at ¶ 6.

¹⁶ Affidavit of Jack Studer, at ¶ 6.

¹⁷ Affidavit of Jack Studer, at ¶ 7.

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Mr. Wamp's work for Lamp Post has never been measured by hours spent in or outside the office, the number of accounts he worked on, or any similar measure.¹⁸ His job was to support Lamp Post and its clients, on an as-needed basis, primarily with public relations matters. And this is exactly what he continued to do throughout his candidacy, primarily working from outside the office.¹⁹ Mr. Wamp's employer, Lamp Post, and the companies he assisted were and continue to be very pleased with Mr. Wamp's performance throughout 2014.²⁰

C. Mr. Wamp's Compensation is Consistent With Amounts Paid to Similarly Qualified Individuals for the Same Work Over the Same Period of Time.

Mr. Wamp's compensation is in line with what other Lamp Post employees with similar experience are paid for similar positions. New Lamp Post employees typically receive approximately \$50,000 to \$60,000 as a starting salary, unless they have special skills or experience, like programming or technical expertise. Mr. Wamp's compensation was adjusted modestly to account for his job performance and years of service to Lamp Post, most recently in May 2013.²¹

Available information indicates that, while salaries vary widely in Mr. Wamp's field, particularly with regard to public relations managers with social media expertise, Mr. Wamp's compensation is comparable to what other companies pay for similar work. A 2012 survey by the Internet news resource Mashable shows that social media-focused jobs offer much variation in salary based on responsibilities and location, but roughly fall within the \$50,000 to \$85,000 range.²² In addition, the United States Department of Labor, Bureau of Labor Statistics, a source the Commission has relied on in prior enforcement matters,²³ has published additional information on salaries for comparable positions in Tennessee. This information shows that the annual mean wage for "advertising managers" in Tennessee in May 2013 was \$75,250 to \$86,570, and for "public relations managers," it was \$63,890 to \$83,590.²⁴ Mr. Wamp's annual compensation in 2014 - \$72,000 - is thus within the range for compensation paid to other individuals offering similar services, within his geographic area, and not excessive in any way.

¹⁸ Affidavit of Jack Studer, at ¶ 8.

¹⁹ The Commission has looked at more informal working relationships before and concluded that compensation is still paid exclusively for services rendered, and not for any other reason, even where the "various activities [of the candidate] cannot easily be reduced to hours spent" or other numerical targets achieved. MUR 5571 (Tanonaka for Congress, 2007) Second General Counsel's Report 13 (Recommendation to take no further action approved 5-0).

²⁰ Affidavit of Jack Studer, at ¶ 10.

²¹ Affidavit of Jack Studer at ¶ 9.

²² MASHABLE, *The Social Media Salary Guide* (Feb. 2012), <http://mashable.com/2012/02/12/social-media-salary-infographic/>.

²³ MUR 5571 (Tanonaka for Congress, 2007) Second General Counsel's Report 13.

²⁴ U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS (May 2013) "Advertising and Promotions Managers," <http://www.bls.gov/oes/current/oes112011.htm#st>; "Public Relations and Fundraising Managers," <http://www.bls.gov/oes/current/oes112031.htm#st>.

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**III. COMPENSATION PAID TO MR. WAMP WAS NOT A CONTRIBUTION
AND THEREFORE THE COMPLAINT SHOULD BE DISMISSED.**

As demonstrated above, Lamp Post has paid Mr. Wamp a reasonable salary that was wholly independent of his candidacy. In addition, Mr. Wamp met his responsibilities and performed his employment duties during the campaign, as he did before his candidacy. And, the compensation paid to Mr. Wamp did not exceed the amount paid to similarly qualified Lamp Post employees or other persons outside of Lamp Post who are in the same field as Mr. Wamp. Moreover, the Complaint offers no facts establishing that Mr. Wamp did not have a *bona fide* employment relationship with Lamp Post, was compensated for something other than his services to Lamp Post and its companies, or was paid compensation beyond what similarly qualified individuals would receive for similar services. We therefore respectfully request that this matter be dismissed.

Thank you for your consideration. If you have any questions, please contact me at (202) 344-4541.

Sincerely,



Lawrence H. Norton

ATTACHMENT B



Filing ID #10003949

FINANCIAL DISCLOSURE REPORT

Clerk of the House of Representatives • Legislative Resource Center • B-106 Cannon Building • Washington, DC 20515

FILER INFORMATION

Name: Thomas Weston Wamp
Status: Congressional Candidate
State/District: TN03

FILING INFORMATION

Filing Type: Amendment Report
Filing Year: 2014
Filing Date: 08/6/2014

SCHEDULE A: ASSETS AND "UNEARNED" INCOME

Asset	Owner	Value of Asset	Income Type(s)	Income Current Year to Filing	Income Preceding Year
First Tennessee Bank		\$50,001 - \$100,000	Interest	\$1 - \$200	\$1 - \$200
Wamp Strategy, LLC		\$1,001 - \$15,000	None		
LOCATION: Chattanooga/Hamilton, TN, US					
DESCRIPTION: Participant in Wamp Strategy, LLC, a limited liability corporation.					

SCHEDULE C: EARNED INCOME

Source	Type	Amount Current Year to Filing	Amount Preceding Year
Lamp Post Group	Salary	\$24,000	\$67,203

SCHEDULE D: LIABILITIES

None disclosed.

SCHEDULE E: POSITIONS

Position	Name of Organization
Partner	Wamp Strategy, LLC

SCHEDULE F: AGREEMENTS

None disclosed.

SCHEDULE J: COMPENSATION IN EXCESS OF \$5,000 PAID BY ONE SOURCE

Source (Name and Address)	Brief Description of Duties
Ranger Up (Durham, NC, US)	Public Relations Services

EXCLUSIONS OF SPOUSE, DEPENDENT, OR TRUST INFORMATION

Trusts: Details regarding "Qualified Blind Trusts" approved by the Committee on Ethics and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or dependent child?

☒ Yes ☐ No

Exemption: Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or dependent child because they meet all three tests for exemption?

☒ Yes ☐ No

COMMENTS

CERTIFICATION AND SIGNATURE

☒ I CERTIFY that the statements I have made on the attached Financial Disclosure Report are true, complete, and correct to the best of my knowledge and belief.

Digitally Signed: Thomas Weston Wamp , 08/6/2014